

APPENDIX A: Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 C.F.R. parts 1, 2, 15, and 87 as follows:

PART 1 – PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309, and 325(e) unless otherwise noted.

2. Section 1.1307(b)(1) is amended by revising the entry for “Wireless Communications Service (part 27)” to read as follows:

§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assignments (EAs) must be prepared.

* * * * *

(b)(1) * * *

TABLE 1 - TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

Service (title 47 CFR rule part) * * * *	Evaluation requirement if: * * *
Wireless Communications Service (part 27)..... * * * *	(1) for the 1390-1392 MHz, 1392-1395 MHz, 1432-1435 MHz, and 1670-1675 MHz bands: <u>Non-building-mounted antennas:</u> height above ground level to lowest point of antenna < 10 m <u>and</u> total power of all channels > 2000 W ERP (3280 W EIRP) <u>Building-mounted antennas:</u> total power of all channels > 2000 W ERP (3280 W EIRP) (2) for the 746-764 MHz, 776-794 MHz, 2305-2320 MHz, and 2345-2360 MHz bands Total power of all channels > 1000 W ERP (1640 W EIRP) * * *

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PART 2 – FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

3. The authority citation for part 2 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

4. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. Revise pages 48, 50, and 51.

b. In the list of United States (US) footnotes, revise footnotes US276 and US346, delete US363, and add footnote USxxx.

c. In the list of non-Federal Government (NG) footnotes, delete footnote NG174.

d. In the list of Federal Government (G) footnotes, revise footnotes G2, G120, and G122.

§ 2.106 Table of Frequency Allocations.

The revisions and additions read as follows:

* * * * *

5.149 5.341 5.385 5.386 5.387 5.388			1755-1850 FIXED MOBILE G42	1755-1850	
1930-1970 FIXED MOBILE 5.388A	1930-1970 FIXED MOBILE 5.388A Mobile-satellite (Earth-to-space)	1930-1970 FIXED MOBILE 5.388A	1850-2025	1850-2000 FIXED MOBILE	Personal Communications (24) Fixed Microwave (101)
5.388	5.388	5.388			
1970-1980 FIXED MOBILE 5.388A					
5.388					
1980-2010 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.351A			1850-2025	NG177	
5.388 5.389A 5.389B 5.389F				2000-2020 MOBILE-SATELLITE (Earth-to-space) US380	Satellite Communications (25)
2010-2025 FIXED MOBILE 5.388A	2010-2025 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space)	2010-2025 FIXED MOBILE 5.388A		NG156	
5.388	5.388 5.389C 5.389D 5.389E 5.390	5.388		2020-2025 FIXED MOBILE	
2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (Earth-to-space) (space-to-space)			2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION- SATELLITE (Earth-to- space) (space-to-space) SPACE RESEARCH (Earth- to-space) (space-to-space)	2025-2110 FIXED NG23 NG118 MOBILE 5.391	TV Auxiliary Broadcasting (74F) Cable TV Relay (78) Local TV Transmission (101J)
5.392			5.391 5.392 US90 US222 US346 US347 USxxx	5.392 US90 US222 US346 US347 USxxx	

		MOBILE (line-of-sight only including aeronautical telemetry, but excluding flight testing of manned aircraft) SPACE RESEARCH (space-to-Earth) (space-to-space)		
5.392		5.392 US303	US303	
2290-2300 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (deep space) (space-to-Earth)		2290-2300 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (deep space) (space-to-Earth)	2290-2300 SPACE RESEARCH (deep space) (space-to-Earth)	
2300-2450 FIXED MOBILE Amateur Radiolocation	2300-2450 FIXED MOBILE RADIOLOCATION Amateur	2300-2305	2300-2305 Amateur	Amateur (97) Note: 2300-2305 MHz became non-Federal Government exclusive spectrum in August 1995
		G123		
		2305-2310	2305-2310 FIXED MOBILE except aeronautical mobile RADIOLOCATION Amateur	Wireless Communications (27) Amateur (97)
		US338 G123	US338	
		2310-2360 Fixed Mobile US339 Radiolocation G2	2310-2320 FIXED MOBILE US339 RADIOLOCATION BROADCASTING-SATELLITE US327 5.396 US338	Wireless Communications (27)
			2320-2345 BROADCASTING-SATELLITE US327 Mobile US276 US328 5.396	Satellite Communications (25)
5.150 5.282 5.395		5.396 US327 US328	See next page for 2345-2450 MHz	See next page for 2345-2450 MHz
	5.150 5.282 5.393 5.394 5.396	See next page		

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 2300-2450 MHz			See previous page for 2310-2360 MHz	2345-2360 FIXED MOBILE US339 RADIOLOCATION BROADCASTING- SATELLITE US327 5.396	Wireless Communications (27)
			2360-2390 MOBILE US276 RADIOLOCATION G2 G120 Fixed	2360-2390 MOBILE US276	Aviation (87)
			2390-2395 MOBILE US276	2390-2395 AMATEUR MOBILE US276	Aviation (87) Amateur (97)
			2395-2400 G122	2395-2400 AMATEUR	Amateur (97)
			2400-2402 5.150 G123	2400-2402 Amateur 5.150 5.282	ISM Equipment (18) Amateur (97)
			2402-2417 5.150 G122	2402-2417 AMATEUR 5.150 5.282	
			2417-2450 Radiolocation G2 5.150 G124	2417-2450 Amateur 5.150 5.282	
			2450-2483.5	2450-2483.5 FIXED MOBILE Radiolocation	
			5.150 US41	5.150 US41	ISM Equipment (18) Private Land Mobile (90) TV Auxiliary Broadcasting (74F) Fixed Microwave (101)
2450-2483.5 FIXED MOBILE Radiolocation 5.150 5.397	2450-2483.5 FIXED MOBILE RADIOLOCATION 5.150 5.394				

* * * * *

UNITED STATES (US) FOOTNOTES

* * * * *

US276 Except as otherwise provided for herein, use of the bands and 2320-2345 MHz and 2360-2395 MHz by the mobile service is limited to Federal Government aeronautical mobile applications and to non-Federal Government aeronautical telemetering and associated telecommand operations for flight testing of aircraft, missiles or major components thereof. The following four frequencies are shared on a co-equal basis by Federal and non-Federal Government stations for telemetering and associated telecommand operations of expendable and reusable launch vehicles whether or not such operations involve flight testing: 2332.5 MHz, 2364.5 MHz, 2370.5 MHz, and 2382.5 MHz. Other Federal Government mobile uses and other non-Federal Government mobile telemetering uses shall be secondary to the above uses.

* * * * *

US346 Except as provided for below and by footnote US222, Federal Government use of the band 2025-2110 MHz by the space operation service (Earth-to-space), Earth exploration-satellite service (Earth-to-space), and space research service (Earth-to-space) shall not constrain the deployment of the Television Broadcast Auxiliary Service, the Cable Television Relay Service, or the Local Television Transmission Service. To facilitate compatible operations between non-Federal Government terrestrial receiving stations and Federal Government earth station transmitters, coordination is required. To facilitate compatible operations between non-Federal Government terrestrial transmitting stations and Federal Government spacecraft receivers, the terrestrial transmitters shall not be high-density systems (see Recommendations ITU-R SA.1154 and ITU-R F.1247). Military satellite control stations at the following sites shall operate on a co-equal, primary basis with non-Federal Government operations:

Facility	Coordinates	
Naval Satellite Control Network, Prospect Harbor, ME	44° 24' 55" N	068° 00' 50" W
New Hampshire Tracking Station, New Boston AFS, NH	42° 56' 52" N	071° 37' 37" W
Eastern Vehicle Check-out Facility & GPS Ground Antenna & Monitoring Station, Cape Canaveral, FL	28° 29' 10" N	080° 34' 34" W
Buckley AFB, CO	39° 42' 55" N	104° 46' 29" W
Colorado Tracking Station, Schriever AFB, CO	38° 48' 21" N	104° 03' 43" W
Kirtland AFB, NM	35° 03' 00" N	106° 24' 00" W
Camp Parks Communications Annex, Pleasanton, CA	37° 44' 00" N	121° 52' 00" W
Naval Satellite Control Network, Laguna Peak, CA	34° 06' 55" N	119° 04' 50" W
Vandenberg Tracking Station, Vandenberg AFB, CA	34° 49' 24" N	120° 31' 54" W
Hawaii Tracking Station, Kaena Pt, Oahu, HI	21° 33' 48" N	158° 14' 54" W
Guam Tracking Stations, Anderson AFB, and Naval CTS, Guam	13° 36' 48" N	144° 51' 12" E

* * * * *

USxxx In the band 2025-2110 MHz, the military services may operate stations in the fixed and mobile except aeronautical mobile services on a secondary and coordinated basis at the following sites:

Site	Coordinates	Radius of Operation (km)
Nellis AFB, NV.....	36° 14' N 115° 02' W	80
China Lake, CA.....	35° 41' N 117° 41' W	50
Ft. Irwin, CA.....	35° 16' N 116° 41' W	50
Pacific Missile Test Range/Pt. Mugu, CA.....	34° 07' N 119° 30' W	80
Yuma, AZ.....	32° 32' N 113° 58' W	80
White Sands Missile Range, NM.....	33° 00' N 106° 30' W	80

* * * * *

• FEDERAL GOVERNMENT (G) FOOTNOTES

* * * * *

G2 In the bands 216-225 MHz, 420-450 MHz (except as provided by US217), 890-902 MHz, 928-942 MHz, 1300-1390 MHz, 2310-2390 MHz, 2417-2450 MHz, 2700-2900 MHz, 5650-5925 MHz, and 9000-9200 MHz, the Government radiolocation service is limited to the military services.

* * * * *

G120 Development of airborne primary radars in the band 2360-2390 MHz with peak transmitter power in excess of 250 watts for use in the United States is not permitted.

G122 In the bands 2395-2400 MHz, 2402-2417 MHz, and 4940-4990 MHz, Federal Government operations may be authorized on a non-interference basis to authorized non-Federal Government operations, but shall not hinder the implementation of any non-Federal Government operations.

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PART 15 – RADIO FREQUENCY DEVICES

5. The authority citation for part 15 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 302, 303, 304, 307, 336, and 554A.

6. Section 15.301 is amended to read as follows:

§ 15.301 Scope.

This subpart sets out the regulations for unlicensed personal communications services (PCS) devices operating in the 1920-1930 MHz band.

7. Section 15.303 is amended by revising paragraphs (a), (g), and (i) to read as follows:

§ 15.303 Definitions.

(a) [Reserved]

* * * * *

(g) Personal Communications Services (PCS) Devices [Unlicensed]. Intentional radiators operating in the frequency band 1920-1930 MHz that provide a wide array of mobile and ancillary fixed communication services to individuals and businesses.

* * * * *

(i) [Reserved]

* * * * *

8. Section 15.319 is amended by revising paragraph (a) to read as follows:

§ 15.319 General technical requirements.

(a) The 1920-1930 MHz band is limited to use by isochronous devices under the requirements of § 15.323.

* * * * *

9. Section 15.321 is removed.

§ 15.321 Specific requirements for asynchronous devices operating in the 1910-1920 MHz band.

PART 27 – MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

10. The authority citation for Part 27 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337, unless otherwise noted.

11. Section 27.1 is amended by removing paragraph (b)(7):

§ 27.1 Basis and purpose.

* * * * *

(b) * * *

12. Section 27.4 is amended by revising the definition of Band Manager to read as follows:

§ 27.4 Terms and definitions.

* * * * *

Band Manager. The term Band Manager refers to a licensee in the paired 1392-1395 MHz and 1432-1435 MHz bands and the unpaired 1390-1392 MHz, and 1670-1675 MHz bands that functions solely as a spectrum broker by subdividing its licensed spectrum and making it available to system operators or directly to end users for fixed or mobile communications consistent with Commission Rules. A Band Manager is directly responsible for any interference or misuse of its licensed frequency arising from its use by such non-licensed entities.

* * * * *

13. Section 27.5 is amended by removing paragraph (g):

§ 27.5 Frequencies.

* * * * *

14. Section 27.6 is amended by removing paragraph (g):

§ 27.6 Service areas.

* * * * *

15. Section 27.11 is amended by removing paragraph (h).

§ 27.11 Initial authorization.

* * * * *

16. Section 27.12 is amended to revise paragraph (b) to read as follows.

§ 27.12 Eligibility.

* * * * *

(b) Band Manager licenses. For the 1392-1395 MHz and 1670-1675 MHz bands and the paired 1392-1395 MHz and 1432-1435 MHz bands, applicants applying for an initial license may elect to operate as a Band Manager, subject to the rules governing Guard Band Managers under subpart G, provided however, that the following rules do not apply to Band Managers:

* * * * *

17. Section 27.13 is amended by removing paragraph (f).

§ 27.13 License period.

* * * * *

18. Section 27.50 is amended by removing paragraphs (f), (f)(1), and (f)(2).

§ 27.50 Power and antenna height limits.

* * * * *

19. Section 27.53 is amended by removing paragraph (j).

§ 27.53 Emission limits.

* * * * *

20. Subpart K is deleted.

Subpart K – 2385-2390 MHz Band.

Part 87 – AVIATION SERVICES

21. The authority citation for Part 87 continues to read as follows:

AUTHORITY: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e) unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-156, 301-609.

22. Section 87.173 is amended by revising the entry for “2310-2390 MHz” to read as follows:

§ 87.173 Frequencies.

* * * * *

(b) Frequency table:

Frequency or frequency band	Subpart	Class of station	Remarks
* *	* *	* *	*
2310-2395 MHz	* * *	* *	* *
* *	* *	* *	*

23. Section 87.303 is amended by revising paragraph (d)(1) to read as follows:

§ 87.303 Frequencies.

* * * * *

(d)(1) Frequencies in the bands 1435-1525 MHz and 2360-2395 MHz are assigned primarily for telemetry and telecommand operations associated with the flight testing of aircraft and missiles, or their major components. The bands 1525-1535 MHz and 2310-2360 MHz are also available for these purposes on a secondary basis. Permissible uses of these bands include telemetry and telecommand transmissions associated with the launching and reentry into the Earth's atmosphere, as well as any incidental orbiting prior to reentry, of manned or unmanned objects undergoing flight tests. In the band 1435-1530 MHz, the following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5, and 1525.5 MHz. In the band 2360-2390 MHz, the following frequencies may be assigned on a co-equal basis for telemetry and associated telecommand operations in fully operational or expendable and re-usable launch vehicles, whether or not such operations involve flight testing: 2364.5, 2370.5 and 2382.5 MHz. In the band 2360-2395 MHz, all other mobile telemetry uses are secondary to the above stated launch vehicle uses.

* * * * *

PART 97--AMATEUR RADIO SERVICE

24. The authority citation for Part 97 continues to read as follows:

AUTHORITY: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted

25. Section 97.303(j)(2)(iii) is modified to read as follows:

§ 97.303 Frequency sharing requirements.

(j) * * * * *

(2) * * * * *

(iii) The 2390-2417 MHz segment is allocated to the amateur service on a primary basis.

(A) The 2390-2395 MHz segment is shared with Federal and non-Federal Government mobile services on a co-equal basis. See 47 C.F.R. § 2.106, footnote US276.

(B) Amateur stations operating in the 2400-2417 MHz segment must accept harmful interference that may be caused by industrial, scientific and medical equipment.

* * * * *

APPENDIX B: Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act ("RFA"),¹³⁸ the Commission has prepared this Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact on small entities by the policies and rules proposed in this *Fourth Notice of Proposed Rule Making* ("4th NPRM"). Written public comments are requested on this IRFA and must be filed by the deadlines for comments on the 4th NPRM provided above in paragraph 66. The Commission will send a copy of the 4th NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.¹³⁹ In addition, the 4th NPRM (or summaries thereof), including the IRFA, will be published in the Federal Register.¹⁴⁰

A. Need for, and Objectives of, the Proposed Rules

We propose to allow DOD to use the band 2025-2110 MHz on a co-equal, primary basis with non-Federal Government operations for DOD earth stations at 11 sites that support DOD space operations. DOD access to the band 2025-2110 MHz may make more spectrum available in the band 1755-1850 MHz for absorbing certain DOD systems displaced from the band 1710-1755 MHz. In addition, we propose to permit the military services to operate stations in the fixed and mobile services in the band 2025-2110 MHz on a secondary (non-interference) basis at six sites in the southwestern region of the United States.

We also propose to make numerous allocation changes to the band 2360-2400 MHz, the most significant of which would rescind the recent establishment of Wireless Communications Services at 2385-2390 MHz, allow Federal and non-Federal Government flight test stations to operate in the band 2385-2395 MHz, and no longer make the band 2390-2400 MHz available for use by unlicensed Personal Communications Services devices. These allocation changes would permit DOD to relocate all aeronautical mobile systems out of the band 1710-1755 MHz, which is a major objective for facilitating the introduction of AWS. In addition, these allocation changes would provide needed replacement spectrum for use by DOD and commercial flight test stations, which may shortly lose access to the 35 megahertz of spectrum at 1525-1535 MHz and 2320-2345 MHz.

B. Legal Basis

This action is authorized under Sections 1, 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 1, 4(i), 154(i), 302, 303(f) and (r), 332, 337.

C. Description and Estimate of the number of Small Entities to Which the Proposed Rule Will Apply.

The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein.¹⁴¹ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization,"

¹³⁸ See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 - 612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

¹³⁹ 5 U.S.C. § 603(a).

¹⁴⁰ *Id.*

¹⁴¹ 5 U.S.C. § 604(a)(3).

and "small governmental jurisdiction."¹⁴² In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.¹⁴³ A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).¹⁴⁴

A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."¹⁴⁵ Nationwide, as of 1992, there were approximately 275,801 small organizations.¹⁴⁶ "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."¹⁴⁷ As of 1997, there were approximately 87,453 governmental entities in the United States.¹⁴⁸ This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer than 50,000 and 1,498 have populations of 500,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be approximately 84,098 or fewer.

In the band 2025-2110 MHz, the proposals in this 4th NPRM would affect licensees in the Television Broadcast Auxiliary Service ("BAS"), the Local Television Transmission Service ("LTTS"), and the Cable Television Relay Service ("CARS").

Broadcast Auxiliary Service (BAS) involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the stations). There are approximately 568 TV BAS licensees in the band 1990-2025 MHz. It is unclear how many of these would be affected by our proposals.

The Commission has not developed a definition of small entities specific to broadcast auxiliary licensees. The U.S. Small Business Administration (SBA) has developed small business size standards, as follows: For TV BAS, we will use the size standard for Television Broadcasting, which consists of all such companies having annual receipts of no more than \$12.0 million.¹⁴⁹ According to Census Bureau data for 1997, there were 906 Television Broadcasting firms, total that operated for the entire year.¹⁵⁰ Of

¹⁴² 5 U.S.C. § 601(6).

¹⁴³ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

¹⁴⁴ 15 U.S.C. § 632.

¹⁴⁵ 5 U.S.C. § 601(4).

¹⁴⁶ Department of Commerce, U.S. Bureau of the Census, 1992 Economic Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

¹⁴⁷ 5 U.S.C. § 601(5).

¹⁴⁸ U.S. Census Bureau, Statistical Abstract of the United States: 2000, Section 9, pages 299-300, Tables 490 and 492.

¹⁴⁹ 13 C.F.R. § 121.201, NAICS code 515120.

¹⁵⁰ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Receipts Size of Firms Subject to Federal Income Tax: 1997," Table 4, NAICS code 515120 (issued Oct. 2000).

this total, 734 firms had annual receipts of \$9,999,999.00 or less and an additional 71 had receipts of \$10 million to \$24,999,999.00.¹⁵¹ Thus, under this standard, the majority of firms can be considered small.

Cable Antenna Relay Service (CARS) There are nine CARS mobile licensees in the band 1990-2025 MHz. It is unclear how many of these would be affected by our proposals. The SBA has developed a small business size standard for Cable and other Program Distribution, which consists of all such companies having annual receipts of no more than \$12.5 million.¹⁵² According to Census Bureau data for 1997, there were 1,311 firms within the industry category Cable and Other Program Distribution, total, that operated for the entire year.¹⁵³ Of this total, 1,180 firms had annual receipts of \$9,999,999.00 or less, and an additional 52 firms had receipts of \$10 million to \$24,999,999.00.¹⁵⁴ Thus, under this standard, the majority of firms can be considered small.

Local Television Transmission Service (LTTS) There are 33 LTTS licensees in the band 1990-2025 MHz. It is unclear how many of these would be affected by our proposals. The Commission has not yet defined a small business with respect to local television transmission services. For purposes of this IRFA, we will use the SBA's definition applicable to wireless and other telecommunications companies – i.e., an entity with no more than 1,500 persons.¹⁵⁵ According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year.¹⁵⁶ Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more.¹⁵⁷ Thus, under this size standard, the great majority of firms can be considered small.

In the band 2360-2390 MHz, the proposals are not expected to impact licensees of flight test stations, except to provide continued access to the band 2385-2390 MHz segment. That is, Federal and non-Federal Government licensees of flight test stations have long shared the band 2360-2390 MHz and our proposals would essentially return the band 2385-2390 MHz to its state prior to reallocation. The additional flexibility given to Federal Government users is not expected to impact licensees of flight test stations because this use would be on a secondary basis.

In the band 2390-2400 MHz, the proposals are not expected to greatly impact licensees in the amateur service or manufacturers of unlicensed PCS. Federal and non-Federal Government use of the band 2390-2395 MHz is expected to occur at only a limited number of aeronautical telemetry ranges in remote areas. We have reviewed our files and have found that no unlicensed PCS device has been authorized in the band 2390-2400 MHz.

We seek comment on this analysis. In providing such comment, commenters are requested to provide information regarding how many total and small business entities would be affected.

¹⁵¹ *Id.* The census data do not provide a more precise estimate.

¹⁵² *Id.* at NAICS code 515120.

¹⁵³ *Id.* at NAICS code 515120.

¹⁵⁴ *Id.* The census data do not provide a more precise estimate.

¹⁵⁵ 13 C.F.R. § 121.201, NAICS code 517212.

¹⁵⁶ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Employment Size of Firms Subject to Federal Income Tax: 1997," Table 5, NAICS code 517212 (issued Oct. 2000).

¹⁵⁷ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees, the largest category provided is "Firms with 1,000 employees or more."

D. Description of projected reporting, recordkeeping, and other compliance requirements.

The proposed rules would require that DOD coordinate a request for use of frequencies in the band 2025-2110 MHz prior to submitting an application to the Commission. Commission licensees may choose to conduct studies or incur other expenses during the coordination process. We are unable to estimate the costs involved with the coordination process.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.¹⁵⁸

We have proposed to require that the 11 Federal Government earth stations prior coordinate their frequency use. Such a requirement will ensure that these earth stations operate in a manner that minimizes the potential of causing harmful interference. This action is expected to protect incumbent BAS, LTTS, and CARS systems from service disruptions caused by receiving harmful interference. We seek comment on significant alternatives commenters believe we should adopt.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules.

None.

¹⁵⁸ 5 U.S.C. § 603(c).

APPENDIX C: Commenters to the 2002 Viability Assessment**Comments (due August 8, 2002):**

Aerospace and Flight Test Radio Coordinating Council ("AFTRCC")
ArrayComm, Inc.
Association for Maximum Service Television, Inc. and the National Association of Broadcasters ("Joint Broadcasters")
BellSouth Corporation, Nucentrix Broadband Networks, Inc., Sprint Corporation, WorldCom, Inc., and Wireless Communications Association International, Inc.
Broadcast Data Corporation and Private Networks, Inc.
Canadian Wireless Telecommunications Association
Cellular Telecommunications & Internet Association ("CTIA")
Cingular Wireless LCC
DCT Los Angeles, L.L.C.
Ericsson Inc
ICO Global Communications (Holdings) Ltd.
Motorola, Inc. ("Motorola")
Nokia, Inc.
Pinnacle West Capital Corporation
Radio Advisory Board of Canada
Siemens
Sirius Satellite Radio Inc. and XM Radio Inc. ("Satellite Radio Licensees")
Telecommunications Industry Association
Verizon Wireless

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

RE: Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Service to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems, ET Docket No. 00-258, et al.

While I support this Notice of Public rulemaking, I want to note my serious concern with the impact of this proceeding on the Broadcast Auxiliary Service ("BAS"). I am pleased that the Commission states in the NPRM that it is "concerned about the impact on future BAS growth." I know that broadcasters will participate fully in this proceeding and will help us to understand the implication of our proposal. I hope that the Commission will carefully study the impact on our upcoming decision on future BAS growth.